

IN THE  
United States  
Circuit Court of Appeals

For the Ninth Circuit

---

MATIAS IDOATA,  
*Plaintiff in Error,*

vs.

UNITED STATES OF AMERICA,  
*Defendant in Error.*

---

BRIEF OF DEFENDANT IN ERROR.

---

*Upon Writ of Error from the United States District  
Court, for the District of Idaho, Southern Division.*

---

E. G. DAVIS,  
*United States District Attorney,*

JOHN H. McEVERS,  
*Assistant United States District Attorney,*  
Residence, Boise, Idaho,  
Attorneys for Defendant in Error.

ROBERT HIBBARD,  
Present address unknown,  
Attorney for Plaintiff in Error.

Filed.....

.....Clerk



IN THE

United States

# Circuit Court of Appeals

For the Ninth Circuit

---

MATIAS IDOATA,  
*Plaintiff in Error,*

VS.

UNITED STATES OF AMERICA,  
*Defendant in Error.*

---

## BRIEF OF DEFENDANT IN ERROR.

---

*Upon Writ of Error from the United States District  
Court, for the District of Idaho, Southern Division.*

---

E. G. DAVIS,  
*United States District Attorney,*

JOHN H. McEVERS,  
*Assistant United States District Attorney,*  
Residence, Boise, Idaho,  
Attorneys for Defendant in Error.

ROBERT HIBBARD,  
Present address unknown,  
Attorney for Plaintiff in Error.



IN THE  
United States  
Circuit Court of Appeals  
For the Ninth Circuit

---

MATIAS IDOATA,  
*Plaintiff in Error,*

vs.

UNITED STATES OF AMERICA,  
*Defendant in Error.*

---

BRIEF OF DEFENDANT IN ERROR.

---

*Upon Writ of Error from the United States District  
Court, for the District of Idaho, Southern Division.*

---

STATEMENT OF THE CASE.

The defendant in this case was charged under the National Prohibition Act in four counts: One, with the possession of intoxicating liquor on the 17th day of March, 1923; Two, with the sale of intoxicating liquor on the 17th day of March, 1923; Three, with possession of intoxicating liquor on or about the 20th day of March,



1923; Four, with maintaining a nuisance. Plaintiff in Error plead guilty to counts one and three, and was by the jury found guilty on counts two and four.

The Plaintiff in Error has filed no brief in this case, and his attorney, as we understand it, has abandoned it. His present whereabouts is not known. The only possible question in this case relates to the sufficiency of the affidavit upon which the search warrant was issued. This is set out in full in the transcript (Tr. pp. 18 and 19). A hearing was held upon the petition of Plaintiff in Error praying the court to prevent the Government from using as evidence any of the property seized under the search warrant issued on the affidavit in question. This petition was denied by the trial court, and we submit that the correctness of his ruling is not fairly open to question.

Respectfully submitted,

E. G. DAVIS,

*United States District Attorney,*

JOHN H. McEVERS,

*Assistant United States District Attorney,*

Residence, Boise, Idaho,

Attorneys for Defendant in Error.